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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,833	10/23/2001	William L. Kelly	88-1057A (Cust.# 24114)	6288

7590 02/27/2004
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EXAMINER

THEISEN, MARY LYNN F

ART UNIT	PAPER NUMBER
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1732

DATE MAILED: 02/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/003,833	Applicant(s) KELLY ET AL.	
	Examiner Mary Lynn F. Theisen	Art Unit 1732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-15 is/are allowed.
- 6) ☒ Claim(s) 16 and 17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/3/2002</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Shaler et al (4,061,807) or Degen et al (4,664,683) or Braun et al (5,033,465) or Koslow (5,019,311) or Nastke et al (6,083,439).
3. Claims 16 and 17 are product by process claims. The patentability of product by process claims is determined by the patentability of the product. Each of the above references discloses an adsorbent structure of activated carbon particles point bonded with 5-30 wt% polyolefin binder. Although made by different processes, the prior art products appear to be identical to the product claimed. The burden is upon applicants to provide evidence that the prior art products do not possess characteristics of the claimed product. See In re Thorpe, 227 USPQ 964 (CAFC 1985).

Specification

4. The disclosure is objected to because of the following informalities: Page 3, lines 11-14 indicate that 70-95 wt% polyolefin and 5-30 wt% activated carbon are mixed. This statement is contrary to every other instance in the specification and claims which indicate 5-30 wt% polyolefin and 70-95 wt% activated carbon.

Appropriate correction is required.

Allowable Subject Matter

5. Claims 1-15 are allowed.
6. The following is a statement of reasons for the indication of allowable subject matter: The prior art does not suggest mixing 5-30 wt% of polyolefin resin powder of a size 5-125 μ with 70-95 wt% activated carbon, placing the mixture in a microwave transparent container, exposing the mixture to microwave radiation to raise the temperature to 3-30°C above the melting point of the resin, compacting and lower the temperature to below the melting point of the resin.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary Lynn F. Theisen whose telephone number is 571-272-1210. The examiner can normally be reached on Thursday and Friday 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni can be reached on 571-272-1196. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1732

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mary Lynn F. Theisen
Primary Examiner
Art Unit 1732

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